

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH CIRCUIT COURT**  
**MIRPURKHAS**

Constitution Petition No.D-682 of 2024

*(Manmohan Vs. P.O Sindh & others)*

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**DATE      ORDER WITH SIGNATURE OF JUDGE**

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*Before*

Adnan-ul-Karim Memon, J

Amjad Ali Bohio, J

Date of hearing & Order 05.08.2024

Mr. Kanji Mal Meghwar, Advocate for the petitioner.

Mr. Ayaz Ali Rajpar, A.A.G Sindh

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**ORDER**

*Adnan-ul-Karim Memon, J.* Petitioner Manmohan has filed this petition under Article 199 of Constitution of Islamic Republic of Pakistan 1973 seeking declaration to the fact that he is eligible and fit person for appointment against deceased/son quota in the light of Administrative Notification issued by the Hon'ble Chief Justice of this Court in grade 01 to 05. He also seeks direction to the respondent District & Sessions Judge, Tharparkar @ Mithi for appointment under 20% fixed quota.

2. We asked the learned counsel for the petitioner to satisfy this Court as to how this petition is maintainable under Article 199 of the Constitution about the appointment of petitioner on deceased/son quota in District Judiciary in Sindh in the light of Rule 11-A of Sindh Civil Servant (Appointment, Promotion, and Transfer) rules 1974, which speaks of only deceased quota and not son quota. Learned counsel for the petitioner has replied to the query with the narration that learned District & Sessions Judge Tharparkar @ Mithi was/is reluctant to appoint the petitioner on deceased quota as his father namely Lakshmikant was serving as Court Clerk and during his service he passed away on 10-11-2021 and petitioner being his son was/is eligible for the appointment of Bailiff based on deceased quota. He further submitted that the learned Registrar has already forwarded the application of the petitioner to the learned District and Sessions Judge Tharparkar @ Mithi vide letter dated 09<sup>th</sup> April 2021; however, nothing has been done; though, he qualifies for the subject post. In support of his contention, he relied upon the Order dated 11-10-2018 passed by this Court in C.P No.D-245 of 2017 and

submitted that under the policy decision/directives of Hon'ble Chief Justice of this Court vide letters dated 03-03-2010, 23-07-2012 and 04-03-2013 the petitioner is entitled to be considered for the subject post.

3. Learned A.A.G without filing the comments, has referred to the administrative Order of the Hon'ble Chief Justice, whereby direction has been issued to the office to entertain the petition and be placed before this Court for appropriate Order.

4. We have heard the learned counsel for the parties' on the issue of deceased quota in District Judiciary under the aforesaid policy decision taken by the Administrative Committee of this Court and perused the material available on record.

5. The important question involved in the present petition is that whether the petitioner is entitled to be appointed on the deceased quota in view of the policy decision/directives of the Hon'ble Chief Justice of this Court, as well as directives issued by the Full Bench of this Court.

6. We have noticed that the District & Sessions Judge Tharparkar @ Mithi needs to invite applications for the posts in terms of directives of the Hon'ble Chief Justice for appointment in terms of Rule 11-A supra as well as policy decision and the appointment needs to be made on merits, for the reason that the District Judiciary has to make recruitment to every post applied by the candidate on open merit as well as based on invalidated or incapacitated/minority/differently-abled and deceased quota reserved for those employees by issuing appointment orders by invoking Rule 11-A supra.

7. In our view, public employment is a source of livelihood; therefore, no citizen shall be discriminated in the said matter on the grounds as provided under Article 27 of the Constitution and that's why Rule 11-A as amended upto date is introduced to cater the situation to accommodate the aforesaid categories of civil servants. Primarily, the appointments in the District Judiciary is to be made in terms of Rule 11-A as well as policy decision of this Court as the employees of District Judiciary are civil servants in terms of Sindh Civil Servant Act, 1973.

8. So far as the role of Registrar of this Court is concerned, petitioner has not sought any relief against him; therefore, no direction is required to be given to him; even otherwise, no administrative decision can be challenged under Article 199 of the Constitution in terms of law laid down by the Supreme Court in the case of *Gul Taiz Khan Marwat*.

9. In the light of above ruled position, no further action is required on our part in the exercise of power under article 199 of the Constitution on the premise that the petitioner has to approach the learned District & Sessions Judge Tharparkar @ Mithi as and when the vacancy occurs in the said office, which is required to be advertised and petitioner shall be at liberty to move an application, which shall be considered in accordance with the law and policy, so introduced by this Court.

10. Resultantly, this petition is disposed of with direction that as and when the vacancy occurs in the office of District & Sessions Judge, Tharparkar @ Mithi, the petitioner's candidature can be considered, purely on merits, including the observation recorded by the Full Bench of this Court.

**JUDGE**

**JUDGE**

"Ali Sher"